

SPS Agreement

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In News : Proponents of the SPS Declaration for the 12th Ministerial Conference noted that the COVID-19 pandemic has underlined the importance of coordinated responses to global crises and of leveraging available regulatory tools such as the SPS Agreement in meeting these challenges in a science-based manner.

SPS Agreement

The Agreement on the Application of Sanitary and Phytosanitary Measures entered into force with the establishment of the World Trade Organization on 1 January 1995. It concerns the application of food safety and animal and plant health regulations.

Problem

- How do you ensure that your country's consumers are being supplied with food that is safe to eat – “safe” by the standards you consider appropriate?
- And at the same time, how can you ensure that strict health and safety regulations are not being used as an excuse for protecting domestic producers?
- The Agreement on the Application of Sanitary and Phytosanitary Measures sets out the basic rules for food safety and animal and plant health standards.
- It allows countries to set their own standards. But it also says regulations must be based on science. They should be applied only to the extent necessary to protect human, animal or plant life or health. And they should not arbitrarily or unjustifiably discriminate between countries where identical or similar conditions prevail.

- Member countries are encouraged to use international standards, guidelines and recommendations where they exist. However, members may use measures which result in higher standards if there is scientific justification. They can also set higher standards based on appropriate assessment of risks so long as the approach is consistent, not arbitrary.
- The agreement still allows countries to use different standards and different methods of inspecting products.

Key Features

- All countries maintain measures to ensure that food is safe for consumers, and to prevent the spread of pests or diseases among animals and plants.
- These sanitary and phytosanitary measures can take many forms, such as requiring products to come from a disease-free area, inspection of products, specific treatment or processing of products, setting of allowable maximum levels of pesticide residues or permitted use of only certain additives in food.
- Sanitary (human and animal health) and phytosanitary (plant health) measures apply to domestically produced food or local animal and plant diseases, as well as to products coming from other countries.

Protection or protectionism?

- Sanitary and phytosanitary measures, by their very nature, may result in restrictions on trade.
- All governments accept the fact that some trade restrictions may be necessary to ensure food safety and animal and plant health protection.
- However, governments are sometimes pressured to go beyond what is needed for health protection and to use sanitary and phytosanitary restrictions to shield domestic producers from economic competition.
- Such pressure is likely to increase as other trade

barriers are reduced as a result of the Uruguay Round agreements.

- A sanitary or phytosanitary restriction which is not actually required for health reasons can be a very effective protectionist device, and because of its technical complexity, a particularly deceptive and difficult barrier to

Challenge.

- The Agreement on Sanitary and Phytosanitary Measures (SPS) builds on previous GATT rules to restrict the use of unjustified sanitary and phytosanitary measures for the purpose of trade protection.
- The basic aim of the SPS Agreement is to maintain the sovereign right of any government to provide the level of health protection it deems appropriate, but to ensure that these sovereign rights are not misused for protectionist purposes and do not result in unnecessary barriers to international trade.

Justification of measures

- The SPS Agreement, while permitting governments to maintain appropriate sanitary and phytosanitary protection, reduces possible arbitrariness of decisions and encourages consistent decision-making.
- It requires that sanitary and phytosanitary measures be applied for no other purpose than that of ensuring food safety and animal and plant health.
- In particular, the agreement clarifies which factors should be taken into account in the assessment of the risk involved.
- Measures to ensure food safety and to protect the health of animals and plants should be based as far as possible on the analysis and assessment of objective and accurate scientific data.

International standards

- The SPS Agreement encourages governments to establish national SPS measures consistent with international standards, guidelines and recommendations. This process is often referred to as “harmonization”.
- The WTO itself does not and will not develop such standards. However, most of the WTO’s member governments (132 at the date of drafting) participate in the development of these standards in other international bodies.
- The standards are developed by leading scientists in the field and governmental experts on health protection and are subject to international scrutiny and review.
- International standards are often higher than the national requirements of many countries, including developed countries, but the SPS Agreement explicitly permits governments to choose not to use the international standards.
- However, if the national requirement results in a greater restriction of trade, a country may be asked to provide scientific justification, demonstrating that the relevant international standard would not result in the level of health protection the country considered appropriate.